

AMENDMENTS TO LB 841

1 1. Insert the following new sections:

2 "Sec. 2. Sections 2 to 10 of this act shall be known and
3 may be cited as the ICF/MR Reimbursement Protection Act.

4 Sec. 3. For purposes of the ICF/MR Reimbursement
5 Protection Act:

6 (1) Department means the Department of Health and Human
7 Services Finance and Support;

8 (2) Gross revenue means the revenue paid to an
9 intermediate care facility for the mentally retarded for resident
10 care, room, board, and services less contractual adjustments and
11 does not include revenue from sources other than operations,
12 including, but not limited to, interest and guest meals;

13 (3) Intermediate care facility for the mentally retarded
14 has the definition found in section 71-421; and

15 (4) Medicaid program means the medical assistance program
16 established pursuant to sections 68-1018 to 68-1025.

17 Sec. 4. (1) Each intermediate care facility for the
18 mentally retarded shall pay a tax equal to six percent of its gross
19 revenue for the most recent State of Nebraska fiscal year.

20 (2) Taxes collected under this section shall be remitted
21 to the State Treasurer for credit to the ICF/MR Reimbursement
22 Protection Fund.

23 (3) Taxes collected pursuant to this section shall be
24 reported on a separate line on the cost report of the intermediate

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1 care facility for the mentally retarded, regardless of how such
2 costs are reported on any other cost report or income statement.
3 The department shall recognize such tax as an allowable cost within
4 the state plan for reimbursement of intermediate care facilities
5 for the mentally retarded which participate in the medicaid
6 program. The tax shall be a direct pass-through and shall not be
7 subject to cost limitations.

8 Sec. 5. (1) The ICF/MR Reimbursement Protection Fund is
9 created. Any money in the fund available for investment shall be
10 invested by the state investment officer pursuant to the Nebraska
11 Capital Expansion Act and the Nebraska State Funds Investment Act.
12 Interest and income earned by the fund shall be credited to the
13 fund.

14 (2) Up to sixty-six percent of the money in the fund each
15 year, including matching federal financial participation, shall be
16 used by the department solely for the purpose of increasing
17 payments under the medicaid program to intermediate care facilities
18 for the mentally retarded participating in such program. Money in
19 the fund not required for payment to intermediate care facilities
20 for the mentally retarded shall be used by the department for
21 payment to providers of community-based services for persons with
22 developmental disabilities. Such payments shall be made in a
23 uniform fashion based on the medicaid resident days for each
24 facility.

25 Sec. 6. (1) On or before May 1, 2004, the department
26 shall submit an application to the Centers for Medicare and
27 Medicaid Services of the United States Department of Health and

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1 Human Services amending the state medicaid plan to provide for
2 utilization of money in the ICF/MR Reimbursement Protection Fund to
3 uniformly increase medicaid payments to intermediate care
4 facilities for the mentally retarded.

5 (2) The tax imposed under section 4 of this act is not
6 due and payable until such amendment to the state medicaid plan is
7 approved by the Centers for Medicare and Medicaid Services.

8 Sec. 7. (1) Collection of the tax imposed by section 4
9 of this act shall be discontinued if:

10 (a) The amendment to the state medicaid plan described in
11 section 6 of this act is disapproved by the Centers for Medicare
12 and Medicaid Services;

13 (b) The department reduces rates paid to intermediate
14 care facilities for the mentally retarded to an amount less than
15 the rates effective September 1, 2003; or

16 (c) The department or any other state agency attempts to
17 utilize the money in the ICF/MR Reimbursement Protection Fund for
18 any use other than uses permitted pursuant to the ICF/MR
19 Reimbursement Protection Act.

20 (2) If collection of the tax is discontinued as provided
21 in subsection (1) of this section, all money in the fund shall be
22 returned to the intermediate care facilities for the mentally
23 retarded from which the tax was collected on the same basis as the
24 tax was assessed.

25 Sec. 8. (1) An intermediate care facility for the
26 mentally retarded that fails to pay the tax required by section 4
27 of this act shall be subject to a penalty of five hundred dollars

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1 per day of delinquency. The total amount of the penalty assessed
2 under this section shall not exceed five percent of the tax due
3 from the intermediate care facility for the mentally retarded for
4 the year for which the tax is assessed.

5 (2) Penalties shall be collected by the department and
6 remitted to the State Treasurer for credit to the ICF/MR
7 Reimbursement Protection Fund.

8 Sec. 9. An intermediate care facility for the mentally
9 retarded that has paid a tax that is not required by section 4 of
10 this act may file a claim for refund with the department. The
11 department may by rule and regulation establish procedures for
12 filing and consideration of such claims.

13 Sec. 10. The department may adopt and promulgate rules
14 and regulations to carry out the ICF/MR Reimbursement Protection
15 Act.

16 Sec. 13. Since an emergency exists, this act takes
17 effect when passed and approved according to law."

18 2. On page 4, line 8, strike "This act becomes" and
19 insert "Sections 1 and 3 of this act become" and after the period
20 insert "The other sections of this act become operative on their
21 effective date."

22 3. Renumber the remaining sections accordingly.